

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 1:13-CV-897**

JAMES DILLON, on Behalf of Himself  
and All Others Similarly Situated,

Plaintiff,

v.

BMO HARRIS BANK, N.A., FOUR  
OAKS BANK & TRUST, a North  
Carolina-Chartered Bank, GENERATIONS  
FEDERAL CREDIT UNION, and BAY  
CITIES BANK, a Florida State-Chartered  
Bank,

Defendants.

**PLAINTIFF’S RESPONSE IN OPPOSITION TO GENERATIONS’  
RENEWED MOTION TO COMPEL ARBITRATION**

On March 10, 2014, this Court entered a memorandum and order denying motions to compel arbitration by Defendants BMO Harris Bank (“BMO”), Bay Cities Bank, and Generations Community Federal Credit Union (“Generations”) finding that the defendants failed to meet “their burden to establish the existence of an agreement to arbitrate.” (Doc. 100, p. 1). On April 15, 2014, 36 days after the Court entered its order denying arbitration, Generations filed a “renewed” motion to compel arbitration, this time attaching the affidavit of Tawny Lawrence, a purported agent and custodian of the now-defunct South Dakota-based lender Western Sky Financial, LLC, in a belated attempt to authenticate the purported payday loan agreement. (*See* Docs. 106, 106-1).

For the same reasons set forth in Plaintiff's response in opposition to BMO's renewed motion to compel arbitration (Doc. 112), Generations has failed to establish any of the three recognized grounds for which courts in this judicial District will reconsider an interlocutory order under Federal Rule of Civil Procedure 54(b). *See, e.g., Akeva L.L.C. v. Adidas Am., Inc.*, 385 F. Supp. 2d 559, 566 (M.D.N.C. 2005) (noting that the "narrow set of grounds" that courts will reconsider an interlocutory order are limited to situations where "(1) there has been an intervening change in controlling law; (2) there is additional evidence that was not previously available; or (3) the prior decision was based on clear error or would work manifest injustice.").

In order to avoid duplicative briefing, Plaintiff adopts and incorporates herein his arguments made in response to BMO's "renewed" motion (Doc. 112), which apply equally here, and respectfully requests that this Court likewise deny Generations' "renewed" motion to compel arbitration.

Dated: May 6, 2014

Respectfully submitted,

/s/ F. Hill Allen

F. Hill Allen

North Carolina State Bar No. 18884

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**Counsel for Plaintiff and the Class**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all counsel of record.

/s/ F. Hill Allen  
Counsel for Plaintiff and the Class